SINGLE BENCH

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IN THE HIGH COURT OF CHHATTISGARH AT BILASAPUR

WRIT PETITON NO.5505/2005

PETITIONER :- Tilak Ram S/o- Juthan Ram Aged about 40 years, Panch of Village Panchayat Block- Kunkuri Distt- Jashpur (C.G.)

VERSUS

RESPONDENTS

1) State of Chhattisgarh Through Secretary Revenue Department D.K.S. Bhawan Raipur (C.G.)

2) Collector, Jashpur Distt- Jashpur (C.G.)

3) Sub Divisional Officer Kunkuri Distt- Jashpur (C.G.)

4) Elisaba Kerketta D/o- Jitia Kerketta Aged about 45 years Sarpanch of Village Panchayat Ghatmunda Block Kunkuri Distt- Jaspur (C.G.)

P.R. No. 5593/05 Presented by Shri Smt. Uma Patel dated 25/10/05

WRIT PETITON UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ

WRIT PETITION NO.5505 OF 2005

Tilak Ram

Versus

State of Chhattisgarh and others.

Present: Mrs. Hamida Siddiqui, learned counsel for the petitioner.

Mr. N.K. Agrawal, Dy. A.G., with Mr. Sandeep Dubey, learned G.A., for the State of Chhattisgarh.

ORAL ORDER
(Passed on 21ST November 2005)

The following Order of the Court was passed by **S.R. Nayak, CJ: -**

The writ petitioner is a Panch of village Panchayat Ghatmunda. The fourth respondent is an elected Sarpanch of the same Panchayat.

2. The petitioner levelling certain allegations against fourth respondent has sought for a direction to the Collector, Jashpur, district Jashpur and Sub Divisional Officer, Kunkuri, district Jashpur, i.e. respondents 2 and 3 respectively herein to take action against the fourth respondent under Section 40 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (*for short 'the Adhiniyam'*). The above relief is sought on the basis of the averments made in paragraphs 5.2, 5.3, 5.4 and 5.5 of the petition and they read as follows:

"5.2 That Respondent no.4 has been elected in the month of December 2004 for the period of 5 years. Since the date of taking charge of Sarpanch Respondent no.3 has no interest in discharge of the duties imposed upon her as a Sarpanch on the contrary she is involved in all kind of corruption and misuse of the power and government money.

5.3 That, the several development work and the work relating to the Gram Panchayat like Indira Awas Yojna, Midday meal, Sulabh Shauchalay Construction, small bridge (Pulia Construction) are suppose to be done by the Sarpanch but she has not interest and concern regarding these work. All the times the amount sanctioned for these development works are being withdrawn by the Sarpanch but that amount is being used up for her personal use and if some work done is shown that is for name sake or the quality is not upto the mark or they are of very poor quality because she is taking commission from the contractor as a result poor quality work is being done.

5.4 That it is pertinent to mention here that she was elected Sarpanch of last tenure and she has again been elected for this term also therefore, she is very negligent regarding her duties.

5.5 That since Respondent no.4 has utterly failed to discharge her duties villagers started making complaints against her before the concern authorities."

3. It is trite that the allegations made in the aforementioned paragraphs are as vague as they could be and they are incomprehensive. The details are utterly lacking. Be that as it may, if the fourth respondent is guilty of misconduct in discharging the duties and functions attached to her office and corrupt practices stated in the petition, if the petitioner so desires, he could garner necessary support from other Panchas and unseat the fourth respondent from the post held by her by resorting to the procedure contemplated under Sections 21 and/or 21-A of the Adhiniyam.

Panchayat is a mini political institution and it contemplates a mini democracy. It is fair and just that the elected office bearers should be shown the way by the elected members themselves. It is not to say that this Court under Article 226 of the Constitution of India cannot step-in and correct the misdeeds of an elected office bearer of a local body. This Court undoubtedly in appropriate case could step-in and correct misdeeds of an elected office bearer of a local body but sparingly and only in a case where alternative effective mode of unseating the office bearer is not found in the statute or where the elected office bearer is found to have blatantly violated the public law requirements. This is not one such case where I am inclined to step-in under Article 226 of the Constitution of India. In that view of the matter, the writ petition is dismissed. However, this order shall not come in the way of the petitioner with the co-operation of the other Panchas of the village Panchayat Ghatmunda to work out the procedure envisaged either under Section 21 or under Section 21-A of the Adhiniyam. Further, it is also made clear that this order would not in any way influence the proceedings initiated against the fourth respondent under Section 40 of the Adhiniyam which is said to be pending before respondent No.3.

Sd/-
Chief Justice